

Village Council
September 8, 2009
6:30 PM

**Minutes
Public Hearing**

Call to Order: Mr. Deeds called the meeting to order at 6:31pm

Roll Call: John Bender, Rick Deeds, Bruce Jarvis, Bobbie Mershon, Victor Paini, Marilyn Rush-Ekelberry, Leah Turner

The purpose of this public hearing is to hear public comments on the appeal filed by James E. Baltzer. Mr. Baltzer was requesting a Variance (VA-09-05) to the Ashbrook Village Subdivision, zoned Planned Residential District (PRD) development text for an addition to an existing garage to reduce the 8-foot side yard setback to 3 feet (Section 1147.04 (b)) which was denied by the Planning and Zoning Commission on July 13, 2009.

Presentation to Council:

Staff Report: Allan Neimayer

Mr. Neimayer gave a power point presentation (see attached). He stated that Mr. Baltzer was informed by the Ashbrook Village Homeowner's Association that there was a violation of the Ashbrook Village covenants, which are above and beyond the zoning requirements. This violation concerns the parking of his truck. The letter stated as a possible solution that he construct a garage on his property where the truck could fit totally inside. In order to accomplish that, he had to apply for a variance. That application would take his side yard setback from 15 feet to 3 feet. Mr. Neimayer presented a list of prior rear or side yard setback variance requests and their dispositions.

Planning & Zoning Commission Report: Mike Vasko

Mr. Vasko stated that P&Z have consistently rejected setback variance requests on a case by case basis. He stated that what he is about to say is simply his thoughts and he is not speaking for any other members of Planning and Zoning. Mr. Vasko stated that reducing that setback to 3 ft would not allow enough room for emergency vehicles to gain access to that property if they needed to without using the reserve area. That would create a de facto easement on the adjacent property. Allowing this would set a precedent that others could follow in making similar requests.

Mr. Vasko stated that the Homeowner's Association has not approved the plan for the garage yet either. The request should have gone in front of the Homeowner's Association first. The request was denied because the criterion wasn't met, there were safety issues and precedent issues.

Applicant: James E. Baltzer

Mr. Baltzer stated that he is not sure if Victor Paini can be unbiased since he lives in Ashbrook Village and is a part of the Homeowner's Association. Mr. Hollins stated there is not a legal issue. Mr. Paini does not feel uncomfortable with the issue.

Mr. Baltzer gave a brief history of the situation. He stated that he received a letter from the HOA. (See attached) He stated that the rules only apply because he has a truck. He states that everyone doesn't follow the rules, but we shouldn't be turning each other in. He thought a better situation would be to build the garage. A typical garage door is 9 feet wide and he has 15 feet of space available, but since the HOA has an 8" setback regulation, he realized that he needed a variance.

In rebuttal to earlier statements, Mr. Baltzer stated that there is a fire hydrant in his front yard, so there is no safety issue. There are already precedents in other areas of the Village. They say it is not a conducive location for a garage, but it is right beside his current garage, so it is the perfect location.

He is not trying to cause a problem for or with anyone. All he wants to do is have reasonable use of his personal property. He didn't request approval from the HOA because the original letter already told him that building a garage was an option. His truck is 21'11" long and it will not fit inside the current garage. The current garage is 20 ft. deep.

It was asked if his truck is tagged commercial. It is not a commercial truck; it has passenger tags. Mr. Baltzer went on to reiterate the letter from the HOA. Mr. Hollins kept focus on the issue of the variance, not the rules of the HOA. Further discussion ensued.

Village Resident Comments:

(Five Minute Limit per Person) None at this time.

Council Comments/Questions:

Dr. Bender admired Mr. Baltzer's passion but believed that he should go back in front of the HOA and tell them what he just said to Council. Mrs. Turner agreed with Dr. Bender.

Mr. Hollins stated that Council will take this matter under advisement and will issue a written opinion. Council will not vote on the issue tonight.

Mr. Jarvis asked about the option of bringing the garage out forward 2 ft to accommodate the truck. Mr. Baltzer explained why that wouldn't work.

Adjournment

Dr. Bender moved to adjourn the meeting; seconded by Mrs. Rush-Ekelberry.

VOTE:

AYES Dr. Bender, Mr. Jarvis, Mrs. Turner, Mrs. Mershon
Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Paini

NAYS

Motion carried. Time out 7:40pm